

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

the Application of) Examiner: Salmon, K.D.
Yongjun Guo) Art Unit: 1634
Serial No.: 10/798,652)
Filed: March 11, 2004)
For: "SINGLE NUCLEOTIDE)
POLYMORPHISM IN THE FGF-3)
GENE AND METHODS OF USE)
THEREOF")

DECLARATION OF DR. GUO UNDER 37 C.F.R. §1.132

I, Yongjun Guo, hereby declare that:

1. I am the inventor of the subject matter described and claimed in US Patent Application 10/798,652 (hereinafter the '652 application). I have reviewed the Official Action dated April 18, 2006, and note the Examiner has rejected the claims for allegedly lacking a complete written description. The Examiner further asserts that undue experimentation would be required to practice my invention. I respectfully disagree for the reasons set forth below.

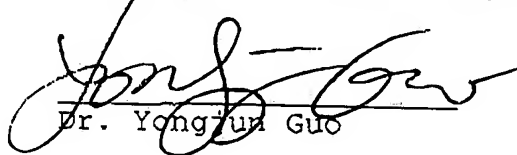
2. I have discovered a polymorphism in the 5' untranslated region of the FG3 gene that is associated with cancer susceptibility. The specification provides a full description of this polymorphism which occurs at position 69 in SEQ ID NO: 1.

3. The Examiner questions the discrepancy between the published sequence of this gene, namely, Y12377 at position 70 and in the instantly claimed SEQ ID NO: 1.

4. I have sequenced the DNA of over 100 patients at the region in question and consistently observed a "G" at position 70 in SEQ ID NO: 1 while only the bases at position 69 were found to vary. Accordingly, it is my position that the previously disclosed sequence of FGF₃ at position 70 is in error. I also note that it is very common for sequences deposited in GeneBank to contain sequencing errors.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the above-referenced application or any patent issued thereon.

8/18/06
DATE


Dr. Yongjun Guo